IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 24010 of 1998

Between:

The Divisional Manager, A.P.S.R.T.C,
East Godavari District

... PETITIONER

AND

1 State Transport Appellate Tribunal, Rep.by it's Presiding Officer,
A.P.,Hyderabad.
2 Regional Transport Authority,
Kakinada, East Godavari District.
3 Ch.Ram Babu, S/o. Veerabhadra Rao,
D.No.15.3.31, Chennavari Street,
Mandapeta, East Godavari District.
4 The Principal Secretary, Govt., of A.P.,
Transport (R&B) IV Department, A.P.,Hyderabad.
5 The Transport Commissioner ,
A.P.,Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, especially in the nature of a writ of certiorari, calling for the records relating to the impugned order dt.10.7.1998 made in A.P.No.105/95, State Transport Appellate Tribunal, A.P., Hyderabad, setting aside the order in R.No.10196/A1/94 ,dt.28.12.94 of the Regional Transport Authority ,East Godavari at Kakinada and directing issue of permit to 3rd Respondent on the so-

called town service route, Mandapeta Rajaratna Theatre Centre to Gangavaram, as being hit by the provisions of the section 104,M.V.Act,1988, It is further prayed to declare that Rule 258(2)(ii) of A.P.M.V.Rules,1989, in so far as it confers power on the Transport Commissioner to convert a mofussil route as town service route as ultravires M.V.Act ,1988 and against the law laid down by Supreme Court and quash the same as being illegal, without jurisdiction and invalid.

Counsel for the Petitioner: MR.K.HARINATH

Counsel for the Respondents: GP FOR TRANSPORT

The Court made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Transport appearing for the respondents.

2. It is represented by the learned counsel for the petitioner and admitted to by the learned Government Pleader for Transport that the issue raised in this writ petition is squarely covered by a Division Bench judgment of this Court in W.P.No.9649 of 1998 and batch dated 23-03-2001, wherein the Division Bench of this Court held as under. -

> " In view of the directions of the Supreme Court, the applications filed by the petitioners are restored and the same continue to be pending on the file of the Regional Transport Authority. The petitioners shall file their applications before the Transport Commissioner within a period of two weeks from today. On receipt of such applications, the Transport Commissioner shall consider the same and pass appropriate orders in accordance with the rules within a period of four weeks thereafter. Status quo with regard to the running of the vehicles shall be maintained as obtained on this day, for a period of six weeks subject to the condition of the petitioners paying Motor Vehicle Tax fore the entire quarter upto 30.6.2001. It is made clear that no equities with regard to refund of proportionate tax will be entertained in the event of the petitioners coming out unsuccessful before the Transport Commissioner. We further make it clear that as the Transport Commissioner is the only donee of the power and as it is stated that he is constituting committees, which runs contra to the mandate of the statute, the Transport Commissioner alone shall consider and dispose of the applications of the petitioners as directed above."

Recording the above submission made by the learned counsel and following the ratio in the aforementioned judgment, this writ petition is also disposed of. No order as to costs.

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N.V. RAMANA, J

March 2, 2005

MRR

Copy to:

1 State Transport Appellate Tribunal, Rep.by it's Presiding Officer,
A.P.,Hyderabad.
2 Regional Transport Authority,
Kakinada, East Godavari District.
3 The Principal Secretary, Govt., of A.P.,
Transport (R&B) IV Department, A.P.,Hyderabad.
4 The Transport Commissioner ,
A.P.,Hyderabad.

5 Two C.C. s to the G.P. for Transport, High Court Buildings,

Hyderabad (OUT)

6 Two C.D. Copies.